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**United States General Accounting Office
Washington, DC 20548**

February 28, 2001

The Honorable Charles E. Grassley
Chairman, Caucus on International Narcotics Control
United States Senate

Subject: Drug Control: The Department of State's Contract Award for Its Counternarcotics Aviation Program

Dear Mr. Chairman:

The Department of State's Bureau for International Narcotics and Law Enforcement Affairs is responsible for implementing policies and programs to combat international narcotics and crime. As part of this effort, the Bureau operates a fleet of aircraft supporting foreign governments in their efforts to locate and eradicate drug crops. The Bureau's total budget for this program has grown to about \$50 million annually, with current operations in the major coca-growing countries of Bolivia, Colombia, and Peru. The Bureau manages the aviation program from its office at Patrick Air Force Base, Florida.

Since 1991, State has awarded two contracts to DynCorp Aerospace Technology for aviation services to support the Bureau's counternarcotics aviation program. Between the time when DynCorp's initial contract with State was scheduled to expire in 1996 and the current 5-year contract was awarded in 1998, State issued three interim sole-source contract extensions to DynCorp.

You expressed concern about whether State complied with applicable contracting requirements in making these awards. In response to your request, we determined whether State (1) followed applicable requirements in issuing the interim sole-source extensions to DynCorp and (2) properly awarded the current contract.¹

RESULTS IN BRIEF

State adhered to applicable contracting laws and regulations in issuing the three interim sole-source contract extensions to DynCorp. Although State had developed extensive plans to make a competitive award before DynCorp's existing contract expired, State determined that because of an ever-changing scope of work, it needed to prepare a completely new solicitation incorporating a different statement of work and various program changes. As a result, State could not award a new competitive contract before DynCorp's contract expired. The documentation shows that because of the contract's magnitude, DynCorp's past experience on the job made it the only qualified contractor able to provide the services without interruption. As required, State publicized each of its decisions to use

¹As agreed with your staff, we will address other aspects of the Bureau's counternarcotics aviation program in a separate report to you.

noncompetitive procedures for the interim contract extensions to allow potential offerors² to challenge the decisions, but no firms expressed interest in competing for the awards.

In awarding the current contract to DynCorp, State complied with the requirements for making a competitive award and also took discretionary steps to promote increased competition, such as holding a pre-proposal conference with potential offerors. Of the two proposals it received, State determined that DynCorp's was technically superior and cost less, thus representing the best value to the government.

BACKGROUND

In 1991, State awarded a 5-year aviation support services contract to DynCorp Aerospace Technology for approximately \$99 million.³ Under this contract, DynCorp flew crop eradication missions and maintained fixed-wing aircraft and helicopters in countries along the Andean ridge and Guatemala. DynCorp also trained foreign government pilots, mechanics, and other support personnel for crop eradication and interdiction missions. The current contract has expanded these operations with emphasis on Colombia and deleted operations in Guatemala.

The Federal Acquisition Regulation covers the procedures agencies must follow in making competitive and noncompetitive (sole-source) awards.

- Generally, the regulation requires agencies to award competitive contracts to meet the statutory mandate for full and open competition.⁴ To this end, the agency is required to (1) publish in the *Commerce Business Daily* a synopsis of any solicitation requirement expected to exceed \$25,000 and (2) send copies of the solicitation to all potential offerors requesting them. In addition, the agency can (but is not required to) take certain actions to facilitate competition, including holding a pre-proposal conference to answer potential offerors' questions about solicitation requirements.
- Noncompetitive procurements are allowed if they are conducted under certain exceptions to the general rule. For example, an agency can use noncompetitive award procedures when it reasonably believes that only one firm can perform the required services. When an agency uses noncompetitive procedures, it must (1) prepare a written justification with sufficient facts and rationale for not opening the award to competition and (2) publish a notice in the *Commerce Business Daily* on its decision not to open the award to competition. An agency can conduct a sole-source procurement when the approved justification sets forth reasons for the agency's action, as long as the agency does not create the need for the sole-source award through lack of advance planning.

²We use the term offerors to mean firms that offer proposals in response to a contact solicitation.

³The contract was awarded under solicitation number 2071-125123 for services in a base year (1991), with four 1-year options for renewal.

⁴Full and open competition is defined as permitting all capable firms the opportunity to submit offers.

STATE ADHERED TO APPLICABLE REQUIREMENTS IN
EXTENDING DYNCORP'S INITIAL CONTRACT

Although State had developed extensive plans to make a competitive award before DynCorp's initial contract expired, it determined more time was needed to include numerous major program changes in the solicitation. As a result, State issued three interim sole-source contract extensions to DynCorp to provide aviation services without interruption. Based on our analysis, State adhered to applicable contracting laws and regulations in making the extensions.

About 2 years before DynCorp's 1991 contract was due to expire on June 1, 1996, State began planning for awarding a competitive contract to continue the aviation support services. Specifically, State revised numerous sections of the solicitation under which DynCorp's first contract was awarded. However, in early 1996, a new contracting officer determined that the solicitation's statement of work did not adequately reflect the current program requirements and needed to be rewritten.⁵ The solicitation also did not tailor the elements of the contract in sufficient detail with regard to the allocation of funds. To address these problems, the contracting officer decided it was necessary to describe in detail the specific operations to be performed at each operational site⁶ and establish a section that tied specific funding to specific country programs.

This approach required the contracting officer to write a new solicitation rather than simply amend the earlier one. At this point, however, State did not have sufficient time to obtain the services needed through a competitive award before DynCorp's contract expired. State determined that DynCorp was the only firm that could provide the interim services to continue its operations. In May of 1996, State issued a justification and approval document to extend DynCorp's contract for 9 months, with a 3-month option to extend the contract again.

On August 2, 1996, State issued a solicitation for a competitive award. However, State subsequently issued several amendments to this solicitation to reflect program changes and an increased scope of work. For example, the use of five OV-10 aircraft—a completely new type of aircraft—was added to the solicitation. In addition, the operations in Colombia were increased to include requirements for two forward operating locations and security and medical support. While State was conducting this competitive procurement, which lasted about 19 months, it needed to issue two additional short-term extensions to DynCorp's contract to continue the aviation support services. State made a competitive award on January 30, 1998.

As required, State explained in three justification and approval documents that only DynCorp, as the incumbent contractor, had the corporate experience, the pilots and aircraft maintenance personnel, and knowledge of the substantial technical assistance and logistics support requirements to continue the work without interruption. Also as required, State published in the *Commerce Business Daily* its decision to award DynCorp the interim sole-source contracts before issuance of each of these justification and approval documents. Although potential offerors had the opportunity to challenge State's decision by showing they were capable of competing for the contracts, the record shows that none did.

⁵The officer who replace the previous contracting officer had also worked on the original solicitation before determining it was inadequate.

⁶Bolivia, Colombia, and Peru and at the Bureau's aviation program office at Patrick Air Force Base, Florida.

STATE PROPERLY AWARDED THE 1998 CONTRACT

State took both required and discretionary actions to ensure adequate competition for the 1998 contract award to DynCorp.⁷ Specifically, it published in *the Commerce Business Daily* a synopsis notifying all potential offerors of the solicitation's requirements. State sent copies of the solicitation to potential offerors that requested it and to all other firms already included on its offerors' mailing list.⁸ State then took several discretionary steps to promote competition. For example, State held a pre-proposal conference with all potential offerors to answer any questions about the solicitation's requirements.

State's solicitation provided that the award would go to the firm offering the best value to the government based on technical merit (technical and management factors) and cost, with technical merit considered substantially more important than cost. Offerors were required to submit both cost and technical proposals.

In response to its solicitation, State received only one offer other than DynCorp's. The record shows State determined that both DynCorp's technical and cost proposals were superior to the other offeror's proposals. With regard to the technical proposals, the technical evaluation team determined that DynCorp's proposal, which received an overall rating of "exceptional," had no significant weaknesses, while the other offeror's proposal, which received an overall rating of "acceptable," had many significant weaknesses. For example, the record shows that DynCorp's proposal offered more relevant past experience and a more detailed management approach for meeting the contract requirements than the other offeror's. Regarding the cost proposals, DynCorp's total cost of about \$170 million (for 5 years) was slightly lower than the other offeror's cost.

After being notified that DynCorp had won the award, the unsuccessful offeror did not request a debriefing on the evaluation of its proposal or take any other action to protest the decision. State nevertheless informally debriefed the unsuccessful offeror on why it failed to receive the award.

SCOPE AND METHODOLOGY

To determine whether State complied with applicable contracting laws and regulations in awarding the contracts to DynCorp, we spoke to cognizant officials at State's Office of Procurement and Bureau for International Narcotics and Law Enforcement Affairs in Washington, D.C., and reviewed applicable laws and regulations. We also interviewed the administrative contracting officer and other cognizant officials at Patrick Air Force Base, Florida, and reviewed the historical contract files stored there.

Our review was conducted from November 2000 through January 2001 in accordance with generally accepted government auditing standards.

⁷The contract was awarded under solicitation number S-OPAQ-96-R-05454 for services in a base year (1998), with four 1-year options for renewal.

⁸State sent solicitation notices to 155 firms.

AGENCY COMMENTS

In oral comments on a draft of this report, State's contracting officer and the Chief of the aviation program's Administration, Maintenance, and Logistics Division agreed with our overall observations and the facts as we presented them.

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We are sending copies of this letter to the Honorable Colin L. Powell, the Secretary of State, and appropriate congressional members. We will also make copies available to others upon request.

If you or your staff have any questions concerning this report, please contact me on (202) 512-4268. Other GAO contacts and staff acknowledgments are in the enclosure.

Sincerely yours,



JTF

Jess T. Ford
Director, International Affairs and Trade

Enclosure

GAO CONTACTS AND STAFF ACKNOWLEDGMENTS

GAO CONTACTS

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ACKNOWLEDGMENTS

In addition to those named above, Sylvia Schatz and Jim Strus made key contributions to this report.

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